

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

Plaintiff,

v.

HON. RICARDO ANTONIO ROSSELLÓ
NEVARES² and THE PUERTO RICO FISCAL
AGENCY AND FINANCIAL ADVISORY
AUTHORITY,

Defendants.

Adv. Pro. No. 19-00393-LTS

**OPPOSED URGENT MOTION REGARDING FURTHER ADJOURNMENT OF
HEARING ON MOTION TO DISMISS**

To the Honorable United States District Judge Laura Taylor Swain:

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² Pursuant to Federal Rule of Civil Procedure 25(d), made applicable hereto by Federal Rule of Bankruptcy Procedure 7025, which are applicable to the Title III Cases and to the captioned adversary proceeding under 48 U.S.C. § 2161, Hon. Wanda Vázquez Garced should be automatically substituted for Hon. Ricardo Antonio Rosselló Nevares, because Governor Rosselló has resigned from his position as Governor of the Commonwealth of Puerto Rico and Hon. Wanda Vázquez Garced has assumed that role.

Jurisdiction and Venue

1. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to PROMESA § 306(a).

2. Venue is proper pursuant to PROMESA § 307(a).

Relief Requested

3. On July 3, 2019, the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) initiated the captioned adversary proceeding by filing a complaint (the “Complaint”) against then-Governor Ricardo Rosselló Nevares (in his official capacity)³ and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) (collectively, the “Defendants” and together with the Oversight Board the “Parties”).

4. Under the Order dated July 7, 2019, oral argument in connection with the *Defendants’ Memorandum of Law in Support of Motion to Dismiss Plaintiff’s Complaint Dated July 3, 2019 Under Fed. R. Civ. P. Rules 12(b)(1) and 12(b)(6)* [ECF No. 17] (the “Motion to Dismiss”) was scheduled to be heard August 2, 2019 in the New York courthouse (the “Hearing”) [ECF No. 40].

5. By mutual agreement of the Parties, in light of then-Governor Rosselló’s resignation, the Hearing was adjourned until August 8, 2019, at 9:30 a.m. [*See* ECF No. 49 (*Order Adjourning Hearing Scheduled for August 2, 2019, to August 8, 2019*)].

6. On August 7, 2019, the Puerto Rico Supreme Court entered an order holding that Hon. Pedro Pierluisi, who took the oath of office as Governor of Puerto Rico after Governor

³ Pursuant to Federal Rule of Civil Procedure 25(d), made applicable hereto by Federal Rule of Bankruptcy Procedure 7025, which are applicable to the Title III Cases and to the captioned adversary proceeding under 48 U.S.C. § 2161, Hon. Wanda Vázquez Garced should be automatically substituted for Hon. Ricardo Antonio Rosselló Nevares, because Governor Rosselló has resigned from his position as Governor of the Commonwealth of Puerto Rico and Hon. Wanda Vázquez Garced has assumed that role.

Rosselló resigned on August 2, 2019, was required to step down as Governor. Defendant AAFAF immediately filed an opposed emergency motion (the “Urgent Motion”) [ECF No. 50] to request that the Hearing be adjourned until the Court’s next available hearing date to give AAFAF and its counsel time to brief and consult with the incoming Governor. The Court granted the Urgent Motion and under the Order dated August 7, 2019 (the “August 7 Order”) [ECF No. 53], the Court rescheduled the Hearing for August 15, 2019 at 2:00 p.m. (AST).

7. At 5:00 p.m. on August 7, 2019, Hon. Wanda Vázquez Garced took the oath of office as Governor of Puerto Rico.

8. It is vital that Governor Vázquez be permitted to provide her guidance on Act 29 and the other aspects of the litigation regarding alleged patterns and practices of the office of the Governor of Puerto Rico. To this effect, AAFAF (which has a new executive director who is also the Chief Financial Officer of Puerto Rico) will be holding a meeting with Governor Vázquez on August 14, 2019 at 3:30 p.m. (AST) to discuss Act 29, the PROMESA section 204 process and this adversary proceeding.

9. Defendants have serious concerns that proceeding with the Hearing on August 15 does not provide them with an appropriate amount of time to fully discuss and evaluate the significant legal and public policy issues at stake here, formulate their positions on them, and engage with the Oversight Board if they believe it is appropriate to do so.

10. Pursuant to the August 7 Order, the Court has advised that the Court’s next available hearing date is next month—in September 2019. [See ECF No. 53.] Further adjourning the Hearing to September will provide Governor Vázquez a meaningful opportunity to evaluate and determine the current administration’s position on Act 29, the PROMESA section 204 process and the other critical matters at issue in this litigation. Accordingly, AAFAF respectfully requests

that the Court enter an order, substantially in the form attached as **Exhibit A**, to schedule oral argument on the Motion to Dismiss for the Court's next available hearing date in September.

Certification in Compliance with the Tenth Amended Case Management Procedures and Local Rule 9013-1

11. Pursuant to Paragraph I.H of the Tenth Amended Notice, Case Management and Administrative Procedures [Case No. 17 BK 3283-LTS, ECF No. 8027-1], counsel to Defendants hereby certify that they have carefully examined the matter and concluded that there is a true need for an urgent motion; they have not created the urgency through any lack of due diligence; they have made a bona fide effort to resolve the matter without a hearing; and they have made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court. **The Oversight Board opposes the relief requested herein.**

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Dated: August 13, 2019

San Juan, Puerto Rico

Respectfully submitted,

/s/ Peter Friedman

John J. Rapisardi
William J. Sushon
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
7 Times Square
New York, New York 10036
Tel: (212) 326-2000
Fax: (212) 326-2061

-and-

Peter Friedman
(Admitted *Pro Hac Vice*)
1625 Eye Street, NW
Washington, D.C. 20006
Tel: (202) 383-5300
Fax: (202) 383-5414

-and-

Elizabeth L. McKeen
(Admitted *Pro Hac Vice*)
610 Newport Center Drive, 17th Floor
Newport Beach, California 92660
Tel: (949) 823-6900
Fax: (949) 823-6994

Attorneys for Defendants

/s/ Luis C. Marini-Biaggi

Luis C. Marini-Biaggi
USDC No. 222301
Email: lmarini@mpmlawpr.com

Carolina Velaz-Rivero
USDC No. 300913
E:mail: cvelaz@mpmlawpr.com

MARINI PIETRANTONI MUÑIZ LLC
250 Ponce de León Ave., Suite 900
San Juan, Puerto Rico 00918
Tel: (787) 705-2171
Fax: (787) 936-7494

Co-attorneys for Defendants

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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(Jointly Administered)

Adv. Pro. No. 19-00393-LTS

[PROPOSED] ORDER ADJOURNING HEARING ON MOTION TO DISMISS

⁴ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Upon consideration of the *Opposed Urgent Motion Regarding Further Adjournment of Hearing on Motion to Dismiss* (Docket Entry No. __, the “Urgent Motion”), filed on August 13, 2019, it is hereby:

ORDERED, that the Urgent Motion is granted as set forth herein; and it is further

ORDERED, that the Hearing is adjourned until **September [__], 2019, at [__:__] [__].m.**

Dated: _____, 2019

HONORABLE LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE